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end of law and the application of legal rules, are left out of the enumeration, although by no means lost sight of in the text.

Among the good features of the book which will be of interest here, note may be made of a suggestive application of Austin's theory to Mohammedan law (p. 38), an accurate and discriminating discussion of the French theory and practice as to the authority of judicial decisions and of the recent tendency to make "jurisprudence" a source of law (p. 90), a convenient note on French decisions, the publications containing them and the mode of citing them (pp. 92-94), a matter to which reference in English has not been easy heretofore, a similar note with respect to French doctrinal writings (pp. 106-107), a valuable note on recent Continental ideas as to interpretation (pp. 149-150) and a note on the nature of a juristic person (pp. 241-245) presenting the modern French view as well as the now familiar doctrine of Gierke.

On the other hand, the long exposition of Savigny's theory of law (pp. 44-48) is followed by no suggestion as to the present status of that theory and the social-philosophical views that are replacing it. Also the discussion of codification does not go beyond the well-trodden path of the controversy between Thibaut and Savigny, the Austinian critique of Savigny and the answer of the English historical jurists thereto. The author accepts Amos' statement that the argument of Savigny is unanswerable. It is true he does mention the refutation of the charge that the French code has hampered legal development which Saleilles made so thoroughly and convincingly. But he does so only to disparage it. To him the idea of a code is the Benthamian one. He had seen Carter's Law: Its Origin, Growth and Function, which he criticizes justly, but not Professor Gray's Nature and Sources of Law. One must feel that the discussion of sources of law might have been much better if the latter work had been consulted.

Sir Henry Maine's unhappy prophecy as to the effect of the Louisiana code may be responsible for the over-cautious statement that the common law is the basis of the law of "most" of the United States, "the *principal* exception being Louisiana" (p. 19). But it is not so easy to account for the reference to "Sir James Bryce" (p. 14).

But such criticisms may well leave a false impression. The book is one to which American teachers of jurisprudence will be glad to refer students for many things not otherwise available in English, and in which those who do not care to read French will find much valuable material for discussion.

R. P.

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MODERN THEORIES OF CRIMINALITY. By C. Bernaldo de Quirós. Translated from the Spanish by Alfonso de Salvio, with an introduction by William W. Smithers. Boston: Little, Brown and Company. 1911. pp. xxvii, 249.

During the past century many changes and ameliorations have been made in our criminal law, but there has been practically no departure from its fundamental theory of personal responsibility. Of late years European writers have strongly attacked this theory and have sought to explain criminality on other grounds. For the purpose of making these new theories available for study and experiment in this country, the American Institute of Criminal Law and Criminology arranged for the translation and publication of certain of the most characteristic writings on criminology under the general title of the Modern Criminal Science Series. The purpose of the series is indicated by the following statement in the general introduction: "Which of the various principles and methods will prove best adapted to help our problems can only be told after our students and workers have tested them in our own experience. But it is certain that we must first acquaint ourselves with these results of a generation of European thought."

The present volume is the first of the series and is in scope a classified bibliography, with a brief statement and comparison of the most important theories. The author says in the preface to the first Spanish edition: "It is a work essentially of information, seldom altered by the personal reflections of the author." The book contains three chapters of which the third was written for the present edition.

In the first chapter criminology is traced from its sources in the occult sciences and psychiatry, and then are set forth the theories of the "three innovators," Lombroso, Ferri, and Garofalo, who are designated as anthropologist, sociologist, and jurisconsult respectively. In the section on the development of criminology, the various theories are divided into two general groups, the anthropological and the sociologic. The great controversy between the anthropologists and the sociologists is stated to be: "Is the criminal born so, or is he a product?" Anthropological theories are divided into atavistic, of degeneration, and pathologic; sociologic theories, into anthropo-sociologic, social, and socialistic.

In the beginning of the second chapter the reforms in the criminal law accomplished by Beccaria and Röder, and the reformation of penitentiary science by John Howard, are briefly referred to. The author says that modern penology has three tendencies, the traditional, the reformistic, and the radical. The reformers who "advocate the traditional penal measures for certain delinquents only with a repressive aim, while for others they reserve preventive measures against relapse and imitation, in accordance with the teachings of modern criminology," are said to be in the majority everywhere. The greater portion of this chapter is devoted to a consideration of the "applications" of criminal law and penitentiary science to delinquents, who are classified as minors, adults without criminal record, and adult recidivists. Under this head juvenile courts, the American system of probation, the English system of conditional sentence, pardon, deportation, indeterminate sentence, reformatories, and capital punishment are discussed. There are also sections on responsibility, prevention of delinquency, and reparation of the injury caused by crime.

In the third chapter, the author treats of the identification of criminals by anthropometry and dactyloscopy. He also considers scientific methods of obtaining evidence, and the value of testimonial evidence. In conclusion he reviews briefly the entire subject and indicates the problem for the future.

Two significant conclusions may be drawn from the subject matter of this book. The first is that the problem of dealing with the criminal may be approached from opposite standpoints. His physical and social condition may be made the test for determining his responsibility to the law for the wrong done, or this condition may be considered in selecting the treatment to be accorded him after he has been convicted. The former represents the attitude of the European criminologists; the latter is the method that has been largely pursued in this country, where important penal reforms, such as the probation system, the indeterminate sentence, and the reformatory system, have originated. The second conclusion is that the theories of the modern school of criminology are as yet unproved. They are still in the propagandic stage, and should neither be rejected without study and trial, nor be accepted as established. It would seem that Mr. Smithers assumes too much when he says in his introduction: "The criminal being the product of cosmic, biological, or social influences which put him out of harmony with conventional morality and cause him to disturb the recognized aims of community existence, must be treated as a ward of the State for the purpose of curing his impairment and meanwhile keeping him so sufficiently restrained as to prevent injury to others."

E. R. K.